

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Mitchell I. Kirschner et al.

Serial No. Not yet assigned

Filing Date: November 14, 2003

Title: NUTRITIONAL FORMULATIONS

**APPLICATION DATA SHEET**

**FOR CONTINUATION U.S. PATENT APPLICATION**

Mail Stop Patent Application  
Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir: ~

1. This is a Request for filing a  
    XX Continuation Application under:  
        \_\_\_\_\_ 37 CFR § 1.53(b) (1)  
    \_\_\_\_\_ Divisional Application under:  
        \_\_\_\_\_ 37 CFR § 1.53(b) (1)  
    \_\_\_\_\_ Continuation-In-Part (CIP) application  
        \_\_\_\_\_ 37 CFR § 1.53(b) (2)

of **prior** ("parent") application:  
    Serial No. 09/972,664  
    Filed: October 9, 2001  
    Entitled: NUTRITIONAL FORMULATIONS

which is a Continuation-In-Part (CIP) Application of  
    Serial No: 09/320,559  
    Filed: May 27, 1999  
    Entitled: NUTRITIONAL FORMULATIONS

2. XXX \*Enclosed for application under 37 CFP. §§ 1.53(b) are:  
    39 pages of text (specification, claims, abstract)  
    23 claims  
    Atty. Docket No. 718689.

3. The **present** application names the following inventor(s)

Mitchell I. Kirschner  
R. Saul Levinson  
Marc S. Hermelin

\_\_\_\_ (37 CFR § 1.53--"CIP") The above-identified application (in which no payment of the Issue Fee, abandonment of or termination of proceedings has occurred) is hereby expressly abandoned as of the filing date of this new application.

The **Total Filing Fee** is calculated as follows:

\_\_\_\_ Enter the Amendment filed in the prior patent application on \_\_\_\_\_ prior to calculating the filing fee.

\_\_\_\_ Enter the enclosed Preliminary Amendment prior to calculating the filing fee.

	(Col 1)		(Col 2)	SMALL ENTITY				
	NUMBER OF CLAIMS FILED		NUMBER OF EXTRA CLAIMS	RATE	FEE	OR	RATE	FEE
TOTAL	23	minus 20	3				18	54
INDEP	3	minus 3	0				86	0
BASE FILING FEE:								770
<u>xx</u> Multiple Dependent Claims								
				TOTAL		OR TOTAL	824	

\_\_\_\_ Applicant(s) is/are a "small entity".

\_\_\_\_ was filed in the parent application, and small entity status is still proper and desired (Rules 60, 62 only);

\_\_\_\_ is filed herewith;

\_\_\_\_ will be filed at a later date.

\_\_\_\_ A check including the \_\_\_\_\_ filing fee is enclosed.

\_\_\_\_ A Petition for Extension of Time (to keep the parent case pending) is enclosed, with a check including the \$ \_\_\_\_\_ extension fee.

\_\_\_\_\_ Assignment document(s) is/are submitted herewith, with a check including the recordation fee of \$ \_\_\_\_\_ per Assignment.

\_\_\_\_\_ No check is enclosed. A Declaration and Power of Attorney will be submitted at a later date pursuant to 37 CFR §1.41, 1.53, together with a check for the "Total Filing Fee" calculated above and a surcharge under 37 CFR § 1.16(e).

XXX The prior application is assigned of record to DrugTech Corporation, 900 Market Street, Second Floor, Wilmington, DE 19801, the Assignment being recorded on April 21, 2000, on Reel 010759, Frame(s) 0644.

\_\_\_\_\_ An original executed Declaration is enclosed.

\_\_\_\_\_ Amend the specification by inserting before the first line the sentence:

\_\_\_\_\_ Foreign priority under 35 U.S.C. § 119 of \_\_\_\_\_ application(s) \_\_\_\_\_, filed \_\_\_\_\_, is hereby claimed. The certified priority paper(s) \_\_\_\_\_ was/were filed in the parent case; \_\_\_\_\_ is/are enclosed herewith; \_\_\_\_\_ will be submitted at a later date.

\_\_\_\_\_ The power appears in the original papers in the prior application.

XXX Address all future communications to:

Richard H. Shear  
**Blackwell Sanders Peper Martin, LLP**  
720 Olive Street, 24<sup>th</sup> Floor  
St. Louis, MO 63101

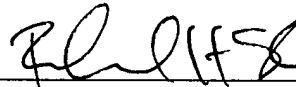
\_\_\_\_\_ If extensions of time under 37 CFR § 1.136 other than those provided herewith are required to prevent abandonment of the parent application, then such extensions of time are hereby petitioned to allow copendency of the parent and the present continuing application. The Commissioner is hereby authorized to charge fee deficiency under 37 CFR § 1.17, or credit any overpayment, to Deposit Account No. 11-0160. A duplicate copy of this Form is enclosed.

XXX The Commissioner is hereby authorized to charge any fee deficiency under 37 CFR §1.16 and 1.17 which may be required, or credit any overpayment, to Deposit Account No. 11-0160.

Respectfully submitted,

**BLACKWELL SANDERS PEPER MARTIN, LLP**

Date: November 14, 2003



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